

**MONTANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**GENERAL PERMIT  
FOR  
STORM WATER DISCHARGES ASSOCIATED WITH  
CONSTRUCTION ACTIVITY**

**Permit No.: MTR100000**

**AUTHORIZATION TO DISCHARGE UNDER THE  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM**

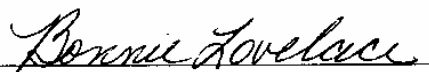
In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA) and the Federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. § 1251 *et seq.*, persons who submit a complete Notice of Intent (NOI) package as defined in Part I, except those excluded from coverage in Part I of this permit, are authorized to discharge storm water from a construction facility or activity in accordance with the limitations, monitoring requirements, and other provisions set forth herein.

A copy of this General Permit must be kept on site at all times.

This Permit shall become effective: **April 16, 2007.**

This Permit and the authorization to discharge shall expire at midnight, **December 31, 2011.**

FOR THE MONTANA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

  
Bonnie Lovelace, Chief  
Water Protection Bureau  
Permitting and Compliance Division

Issuance date: March 16, 2007

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## **PREAMBLE**

The purpose of this Preamble is to provide the construction project owner/operator who submits a Notice of Intent Package for a storm water discharge associated with construction activity under the *General Permit for Storm Water Discharges Associated with Construction Activity* (General Permit) with a summary of the requirements of this General Permit.

The basic principle of the General Permit is to identify areas or activities that may contribute pollutants to state surface waters and to consider practical Best Management Practices (BMPs) to reduce such pollutants from your construction project. The degree of pollution control necessary will vary depending on the site and the situation.

The major pollutant for construction sites will be sediment discharges from increased erosion. The discharge of "significant sediment" or other pollutants from the construction project to state surface water may cause a violation of this General Permit. Adequate erosion and sediment control measures must also be used to prevent sediment discharges to riparian areas, ephemeral streams, and drainages which only periodically contain state surface water.

Other pollutants likely to be a problem at construction sites are fuels, lubricating oils, construction materials, various wastes, fertilizers, or pesticides. Managing these materials properly is a primary factor in ensuring pollutants do not reach state surface waters through storm water runoff.

In order to help characterize the construction activity, potential sources of pollutants, and BMPs to help ensure pollutants do not reach state surface waters, the owner/operator is required to develop and implement a Storm Water Pollution Prevention Plan (SWPPP). The basic requirements of the SWPPP are provided in Part IV of this General Permit.

The General Permit requires that the site reach "final stabilization" before permit coverage may be terminated. In Montana's semi-arid climate, the time necessary to achieve this "final stabilization" often requires General Permit coverage well beyond the conventional earthwork and facility construction phase to ensure vegetation or other site stabilization measures are in-place.

Coverage under this General Permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

**PART I. COVERAGE UNDER THIS GENERAL PERMIT**

**A. Coverage Area**

The General Permit applies to all areas of the State of Montana, except for Indian Reservations.

**B. Sources Covered Under this General Permit**

This General Permit covers all projects or activities which meet the definition of "storm water discharge associated with construction activity" as defined in Part VI of this permit. For determining whether coverage under this General Permit is required, the total land area of disturbance that is part of a larger common plan of development or sale must be used. Determination of the acreage of disturbance does not typically include disturbance for routine maintenance activities on existing roads where the line and grade of the road is not being altered, nor does it include the paving of existing roads.

The General Permit may also cover storm water discharges from support activities related to a construction site (e.g. concrete or asphalt batch plants, equipment staging yards, material storage areas, etc.). This is provided that:

1. The support activity is not a commercial operation serving multiple unrelated construction projects and does not operate beyond the completion of the construction activity.
2. Appropriate controls and measures are identified in the Storm Water Pollution Prevention Plan (SWPPP) for the discharge from the support activity.

**C. Sources Excluded from Coverage Under this General Permit**

1. The Department may deny authorization for discharge under the General Permit if the specific source filing for authorization appears unable to comply with:

- a. Effluent limitations or other terms and conditions of the permit,
- b. Water quality standards established pursuant to 75-5-301, MCA, and ARM Title 17, Chapter 30, Subchapters 5, 6, 7, and 10,

2. The following sources are excluded from coverage under the General Permit:

- a. Any discharge to which the Regional Administrator has objected to in writing,
- b. The facility or activity is subject to federal effluent limitation guidelines as adopted by the Montana Board of Environmental Review in ARM Title 17, Chapter 30, Subchapter 12,
- c. The storm water discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the MPDES General Permit,
- d. MPDES permit or authorization for the same operation has previously been denied or revoked,
- e. The discharge sought to be authorized under a MPDES General Permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, *et seq.*, MCA, or,
- f. The point source is or will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274.

**D. Sources seeking coverage under the General Permit after April 16, 2007**

Unless excluded from coverage in accordance with Paragraph C, owners or operators of construction activities or sites that may discharge storm water to state surface waters may obtain coverage under this General Permit by submitting a complete NOI package to the Department at the address given below.

- 1. The complete NOI Package consists of:
  - a. A completed NOI form using the standard NOI form provided by the Department and signed by the appropriate signatory based on the signatory requirements stated in Part V of this General Permit.
  - b. A separate SWPPP (document and related plans) which has been completed in accordance with the requirements identified in Part IV of this General Permit and signed by the owner/operator in accordance with the signatory requirements stated in Part V of this General Permit.

- c. The appropriate application (NOI) fee as required by ARM 17.30.201.

2. NOI Package Submittal

A signed and complete NOI form, a signed and complete SWPPP, and the required application (NOI) and annual fees must be submitted to the following address:

Department of Environmental Quality  
Water Protection Bureau  
P.O. Box 200901  
Helena, MT 59620-0901

3. Department Processing of NOI Package

The Department will send a Confirmation Letter acknowledging the receipt of the complete Notice of Intent Package.

Incomplete or unsigned NOI submittals will be returned to the applicant and coverage under the General Permit is not effective until a complete package is received. The source is not authorized under the General Permit until a complete NOI package is received by the Department.

Receipt by the Department of the complete NOI Package constitutes a full agreement by the permittee to meet and comply with all requirements stated in this General Permit.

Coverage under the General Permit remains in effect until the permittee submits a Notice of Termination (NOT) stating that the site has achieved final stabilization and all applicable fees have been paid. The NOT form must be signed by the owner or operator or other authorized person in accordance with Part V of the General Permit. The permittee is responsible for payment of annual fees for each calendar year in which the source is covered under the General Permit.

**E. Sources Covered Under the 2002 General Permit – Continuing Coverage**

In order to maintain coverage under the General Permit, all sources must submit a complete NOI form and submit an application (NOI) fee (ARM 17.30.201(5) schedule I.B) by July 1, 2007. The NOI must be submitted to the Department at the address provided in Part I.D. The source is not required to submit a new or an amended SWPPP; however, a valid SWPPP must be maintained by the permittee in accordance with Part IV of this General Permit. Coverage under the General Permit will be terminated after July 1, 2007 unless a completed NOI form and fee have been received by the Department for the site.

Coverage under the General Permit remains in effect until the permittee submits a Notice of Termination (NOT) certifying that the site has achieved final stabilization or the permittee fails to submit a complete NOI form by July 1, 2007. The NOT form must be signed by the owner or operator or other authorized person in accordance with Part V of this General Permit. The permittee is responsible for payment of annual fees for each calendar year in which the source is covered under the General Permit.

**F. Modification to NOIs**

After a NOI package is received by the Department and coverage under the General Permit is in effect, a permittee may not modify the NOI or SWPPP to add additional construction-related disturbance area(s) except if the new additional construction-related disturbance is directly contiguous to and directly associated with the original site or facility, except for support activities. In accordance with ARM 17.30.201 the permittee must submit the applicable application fee. Such an amendment is considered a major amendment.

An authorization under the General Permit may be transferred to a new owner or operator in accordance with Part V. of this General Permit after the appropriate transfer has been paid.

**G. Notice of Termination**

1. Where a site has been finally stabilized the permittee shall submit a standard DEQ Notice of Termination (NOT) form that has been signed in accordance with Part V of this General Permit. The NOT form must include the following information:
  - a. The facility or site name and location, mailing address of the construction activity site. Where a mailing address for the site is not available, the location of the site must be described by the latitude and longitude of the site (in degrees, minutes, and seconds);
  - b. The name, address, and telephone number of the permittee as identified in the NOI;
  - c. The MPDES NOI number (Permit Number) as stated in the NOI Package Receipt Confirmation Letter described in Part I.C.4. of this General Permit;
  - d. Certification indicating the site has achieved final stabilization, and

- e. The complete NOT form must be signed and certified in accordance with the requirements in Part V of the General Permit. The NOT must be sent to the following address:

Department of Environmental Quality  
Water Protection Bureau  
P.O. Box 200901  
Helena, MT 59620-0901

Failure to submit a Notice of Termination shall result in accrual of annual permit fees until this notice has been received by the Department.

2. Any owner or operator of a facility or site covered under this General Permit may request to be excluded from coverage under this General Permit by applying for an individual permit. If a final individual permit is issued to an owner/operator otherwise subject to this General Permit, coverage under this General Permit is terminated on the effective date of the individual permit.

#### **H. Fees**

1. Fees submitted for storm water discharges associated with construction activity are divided into two categories based on the following:
- a. A "residential (single family dwelling)" construction activity is the construction of any building, structure, access, utility, or related disturbance utilized for single family occupancy on a distinct and individual lot or parcel of land and that is not combined with or a part of construction activity related to other lots, parcels of land, or single family dwellings. Construction activity must directly include the construction of one single family dwelling (house). Persons constructing more than one single family dwelling (such as a subdivision) are not eligible.
  - b. A "commercial or public" construction activity is a construction activity that does not meet the above criteria as a "residential (single family dwelling)" construction activity and that includes the development of subdivisions and other projects which are part of a common plan for development or sale.

An indication of which of these two categories a construction activity meets must be provided on the NOI form.

2. Annual fees are based on the calendar year. Permittees are responsible for paying the annual fee for any calendar year, or portion thereof, for which they have an active storm water discharge authorization under this General



Permit. A Notice of Termination under Part I.G. of this General Permit is required to deactivate the accrual of annual fees.

3. The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may:
  - a. Impose an additional assessment consisting of 15% of the fee plus interest on the required fee computed at the rate established under 75-5-516, MCA, or
  - b. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this sub-section.

**I. Residential (Single Family Dwelling) Authorization**

Under ARM 17.30.201 and Part I.H. of the General Permit, a provision exists for General Permit authorization with a reduced flat fee for a "residential (single family dwelling)" storm water discharge associated with construction activity. To qualify for this type of authorization, all construction-related disturbance must achieve "final stabilization" within two years after the date the initial complete NOI package was submitted.

**PART II. EFFLUENT LIMITATIONS AND STANDARDS**

The following effluent limitations and conditions apply to all facilities or activities subject to this General Permit

- A. There must be no discharge of process wastewater pollutants to state surface waters.
- B. Any discharge to state surface waters must be composed entirely of storm water. Discharges must consist of water generated only through rainfall precipitation and snowmelt.
- C. A discharge of storm water must not cause or contribute to a violation of water quality standards.
- D. The permittee shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the requirement of Part IV of this General Permit.
- E. The permittee must implement and maintain all BMPs and storm water management controls in accordance with the requirements of the General Permit.
- F. The requirements of this permit remain in effect until the site has reached final stabilization and the owner or operator has submitted a complete Notice of Termination (NOT) form and paid the applicable fee.

### **PART III. MONITORING AND REPORTING REQUIREMENTS**

#### **A. Monitoring Requirements**

1. The permittee shall implement and maintain Best Management Practices (BMPs) to minimize potential pollutants in storm water discharges, as identified in the SWPPP.
2. Storm water discharges associated with construction activity must be monitored by the permittee as specified in this section to evaluate the adequacy and effectiveness of the erosion and sediment control measures and BMPs.
3. Erosion and sediment control measures must be inspected and maintained by or under the direction of the permittee at least once every fourteen calendar days and within 24 hours after any rainfall event of 0.5 inches or greater.
4. The frequency of the inspections required in Part III.A.3. may be reduced to monthly, as follows:
  - a. After the permittee has completed earthwork and construction activities at the construction site and has installed the SWPPP erosion and sediment control measures and other BMPs necessary to establish final stabilization at a later date, or
  - b. Between December 1 and March 1.

In either case, all sediment and erosion control measures and other BMPs must be in place as identified in the SWPPP. This change in inspection frequency and its schedule for implementation must be indicated in the SWPPP.

5. All inspections and monitoring performed above under Part III.A.3. and 4. of this General Permit must be documented and kept in accordance with Part III.C.2. and 3. of this General Permit.
6. The permittee of a storm water discharge associated with construction activity with construction-related disturbance of 5 acres or more of total land area, which has had active General Permit coverage for 1 year or more, shall perform an annual inspection of the site by the 1 year anniversary date of the submittal of the NOI Package or the initiation of active permit coverage. The annual inspection must:
  - a. Identify areas contributing to the storm water discharge associated with construction activity and evaluate whether measures to reduce

pollutant loadings identified in the SWPPP are adequate and properly implemented in accordance with the requirements in this General Permit or whether additional controls are needed.

- b. Be summarized in a report that includes a certification of compliance with the SWPPP and General Permit and any incidents of non-compliance. Such report and certification must be signed in accordance with the signatory requirements of Part V of this General Permit. This inspection record, report, and certification must be maintained in accordance with Part III of this General Permit. The annual inspection report is not required to be submitted to the Department.

**B. Reporting Requirements**

1. Notification of Facility Contact Changes

The permittee shall notify the Department in writing of any change of the designated contact person, mailing address, and/or telephone number (as originally identified in the Notice of Intent) within 15 calendar days of this change.

2. Noncompliance Reporting

If, for any reason, the permittee does not comply with or will be unable to comply with any condition specified in this General Permit, the permittee shall notify the Department within 24 hours of becoming aware of the noncompliance and provide the Department with the following information, in writing, within five calendar days of becoming aware of such condition:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times; or, if not identified, the anticipated time the noncompliance is expected to continue; and,
- c. Additional measures being taken to reduce, eliminate, and prevent recurrences of the non-complying discharge or other cause of noncompliance.
- d. Maintain a copy of the noncompliance report.

All reports, notifications, and inquiries regarding the conditions of this General Permit must be provided to the Department at:

Department of Environmental Quality  
Water Protection Bureau  
P.O. Box 200901  
Helena, MT 59620-0901  
(406) 444-3080

**C. Records Retention**

**1. Permit Retention Requirements**

The permittee shall retain a copy of this General Permit, a copy of the completed and signed NOI form, a copy of the Department's Confirmation Letter for Receipt of the Notice of Intent Package (after it is received by the permittee from the Department), and a copy of the completed and signed Storm Water Pollution Prevention Plan (SWPPP) at the construction activity project site at all times during the active coverage period provided under this General Permit. If no permanent offices/buildings are located at the facility site, copies of these documents must be retained at the office of the permittee's contact person identified on the Notice of Intent form and at the office of the permittee and must be brought to the site at all times with these identified persons. If the person designated as responsible contact/individual is replaced during the active coverage period provided under this General Permit, the permittee shall ensure measures are in place to transfer and familiarize replacement personnel with the requirements pertaining to these documents.

**2. Inspection Records**

The permittee shall keep a record of inspections and the information required in Part III of the permit, the date and time of inspection, the name of the person performing the inspection, any occurrence of noncompliance with the permit and any corrective measures or actions taken by the permittee. This inspection record must be made available to the Department upon request.

**3. Required Period of Record Retention**

All records and information resulting from the monitoring activities required by this General Permit, a copy of the completed and signed NOI form, a copy of the DEQ NOI Package Receipt Confirmation Letter, and a copy of the completed and signed SWPPP shall be retained by the permittee for a minimum of 3 years from the date the site is finally stabilized, or longer if requested by the Department.

**PART IV. STORM WATER POLLUTION PREVENTION PLAN**

- A. The permittee shall develop a Storm Water Pollution Prevention Plan (SWPPP). The permittee shall implement the SWPPP at the time construction activity commences. The objective of the SWPPP is to minimize the erosion of disturbed land during construction and post-construction activities and to minimize pollutants, such as from sediment, fuels, oil, grease, fertilizer, pesticides, concrete truck washout, etc., from discharging to state surface waters. It is the responsibility of the permittee to ensure the SWPPP requirements stated in this General Permit are complied with. Incomplete SWPPPs are a violation of this General Permit. The Department may take (or initiate) enforcement action if a permittee is found to have prepared an incomplete SWPPP.

The SWPPP must:

1. Be signed and certified in accordance with the signatory requirements in Part V of this General Permit;
  2. Be maintained at the construction site in accordance with Part III.C. of this General Permit; and
  3. Provide for compliance with the terms and schedule of the SWPPP and be updated as necessary.
- B. The SWPPP must be implemented for the entire duration of the project, beginning with disturbance related to construction activity and lasting through establishment of site final stabilization of disturbed areas.
- C. The Department may notify the permittee that the SWPPP is not in compliance with this General Permit. This determination of SWPPP deficiency may be derived through site inspection or through a review of the SWPPP. After such notification from the Department, the permittee shall make changes to the SWPPP and submit a written certification to the Department indicating the necessary changes have been made. Unless otherwise provided by the Department, the permittee shall have 7 calendar days after such notification to make the necessary changes to the SWPPP. When the Department makes such notification, the permittee shall provide the Department with a copy of revisions to the SWPPP.
- D. The permittee shall maintain and keep the SWPPP updated to reflect current conditions. The SWPPP shall also incorporate improvements if the SWPPP proves to be ineffective in achieving the general objectives of minimizing pollutants in the discharge of storm water from the site.
- E. The SWPPP may include any erosion and sediment control measures or Best Management Practices (BMPs), including but not limited to the use of sediment

basins, berms, barriers, filter strips, covers, diversion structures, seeding, and sodding.

- F. Any SWPPP that is prepared for a construction activity must be developed and implemented using standard engineering practices.
- G. The SWPPP must include at least the following items:
1. Site Description: Each plan must at a minimum, provide a description of the following:
    - a. The nature of the construction activity, including a proposed implementation schedule for major activities;
    - b. Estimates of the total area of the site, and all other sites if a phased development project, and the area of the site that is expected to undergo disturbance related to construction activity;
    - c. Site map(s) indicating:
      - Areas of total development and, at a minimum, areas of "disturbance" related to construction activity (including support activities related to a construction site, concrete or asphalt batch plants, equipment staging yards, material storage areas, material borrow areas, etc.);
      - Drainage patterns;
      - Approximate slopes anticipated after major grading activities;
      - Areas used for the storage of soils or wastes;
      - Areas used for the storage of fuel(s);
      - Location of all erosion and sediment control measures or structures;
      - Areas where vegetative measures are to be implemented;
      - The location of impervious structures (including buildings, roads, parking lots, outdoor storage areas, etc.) after construction is completed;
      - The location of all state surface waters on or near to the construction activity site (including perennial and intermittent waterbodies, ephemeral streams, springs, wetlands with standing water, etc.),
      - The boundary of the 100-year floodplain, if determined; and
      - A north arrow and map scale;

- d. The character and erodibility of soil(s) and other earth material to be disturbed at the project site, including cut/fill material to be used;
- e. For a storm water discharge associated with construction activity with construction-related disturbance of 5 acres or more of total land area, an estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the NOI is completed;
- f. The names of receiving state surface waters and a description of the size, type, and location of each point source discharge or outfall. If there is no distinguishable point source discharge or outfall to the receiving state surface waters, a description of storm water runoff flow and drainage patterns into the receiving state surface waters must be provided. If the discharge is to a municipal separate storm sewer, the location of any storm sewer discharge into receiving state surface waters; and
- g. A description of storm water discharges from support activities related to a construction site (e.g. concrete or asphalt batch plants, equipment staging yards, material storage areas, fill areas, access roads constructed, etc.).

2. BMPs and Storm Water Management Controls

The permittee covered by this General Permit shall develop, as part of the SWPPP, a description of BMPs and storm water management controls appropriate for the site, including a brief description of applicable local erosion and sediment control requirements. The following minimum components must be addressed, including a schedule for implementation, unless otherwise authorized in writing by the Department.

- a. A description of stabilization measures which must, to the degree practicable, preserve existing vegetation and re-vegetate areas of construction-related disturbance as soon as possible after grading or construction. In developing vegetative measures, the permittee shall consider: temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer/filter strips, grassed waterways, erosion control blankets, and tree and shrub planting.
- b. A description of structural measures which indicates how, to the degree practicable, the permittee will divert storm water flows from exposed soil, store these flows, or otherwise limit runoff from exposed areas of the site. In developing structural measures, the permittee shall consider: straw bale dikes, sediment control (silt)



fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drains, pipe slope drains, rock outlet protection, drain inlet and outlet protection, temporary drain diversions, sediment traps, temporary sediment basins, infiltration trenches or basins, and retaining walls. The permittee should also consider the proximity of structural measures with respect to floodplains, and if there are other alternatives, avoid the placement of structural BMPs within the floodplain.

- c. None of the temporary control structures, including sediment control (silt) fences and straw bale dikes, shall be removed until permanent vegetation and site stabilization has taken place. The only exception to this would be where temporary control structures need to be moved or removed in order to allow continuing construction activities to occur, in which case equivalent measures must be implemented to ensure the same level of protection in minimizing potential pollutant discharges.
  - d. Off-site vehicle tracking of sediments from the construction site must be controlled or minimized, particularly onto paved road surfaces, in order to minimize the potential impairment of storm water quality.
  - e. When trucking saturated soils from the site, either tight leak-proof trucks must be used or loads must be required to drain until drippage has been reduced to less than 1 gallon per hour before leaving the site.
  - f. Good housekeeping measures to help minimize other non-sediment pollutant contact with storm water runoff. Common potential problem areas to address would be waste management areas, storage areas, loading/unloading areas, and drums/tanks/containers. Measures could include a routine schedule for the managing/removal of waste materials, as well as routine inspections of these potential problem areas.
- H. BMPs must minimize or prevent "significant sediment" (as defined in Part VI of this General Permit) from leaving the construction site.
- I. If "significant sediment" (as defined in Part VI of this General Permit) results from the failure of erosion or sediment control measures, the permittee shall evaluate the effectiveness of such measures or other BMPs and incorporate improvements to minimize the potential for "significant sediment".
- J. If "significant sediment" (as defined in Part VI of this General Permit) results from the failure of erosion or sediment control measures, the material should be

cleaned up and placed back on site, disposed of in an acceptable manner which minimizes any impact to state surface water. The sediment must not be washed into the storm sewer(s), drainageway(s), or receiving state surface waters. The permittee must document the clean-up action in accordance with the inspection and monitoring requirements of Part III.C of this permit. This requirement does not waive any obligations for the permittee to obtain other permits or permissions to clean up the "significant sediment."

- K. A description of measures to control pollutants in storm water discharges that will occur after construction operations have been completed must be addressed in the SWPPP, including a brief description of applicable local erosion and sediment control requirements. Such measures may include: storm water detention structures (including wet ponds), storm water retention structures, flow attenuation by use of open vegetated swales and natural depressions, and infiltration of runoff on-site.

**PART V. STANDARD CONDITIONS**

The following standard permit conditions apply to all facilities authorized to discharge under this Permit.

**A. Duty to Comply**

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application (NOI). The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

**B. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall first apply for and obtain a new permit. The application (NOI) form and fee must be submitted at least 30 days before the expiration date of this permit. The Department reserves the authority to administratively extend permit coverage in the event the General Permit is no longer effective, if the permittee has reapplied for permit coverage.

**C. Need to Halt or Reduce Activity not a Defense**

It may not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**D. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**E. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

**F. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or

termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

**G. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege.

**H. Duty to Provide Information**

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**I. Inspection and Entry**

The permittee shall allow the Department, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

**J. Signatory and Certification Requirements**

All applications (NOIs), reports, or information submitted to the Department must be signed and certified.

1. All permit applications (NOIs) shall be signed as follows:
  - a. For a corporation, by a responsible corporate officer. A responsible corporate officer means:
    - i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who

performs similar policy- or decision-making functions for the corporation; or

- ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
  - c. For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes:
    - i. the chief executive officer of the agency; or
    - ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. All reports required by permits, other information requested by the Department, must be signed by a person described in Part V.J.1. or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- a. the authorization is made in writing by a person described in Part V.J.1.;
  - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and,
  - c. the written authorization is submitted to the Department.
3. Changes to authorization. If an authorization under Part V.J.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.J.2. must be submitted to the Department prior to or together with any reports, information, or applications (NOIs) to be signed by an authorized representative.
4. Certification. Any person signing a document under this Part shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**K. Planned Changes**

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit.

**L. Anticipated Noncompliance**

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

**M. Permit Transfers**

Permit coverage is not transferable to any person except after notice is given to the Department and a transfer fee is paid. Notice of transfer must be completed on the form provided by the Department and must be received by the Department at least 15 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following the signatory requirements of Part V of this General Permit. If the new permittee develops a new SWPPP, the new permittee shall implement the old SWPPP until the new SWPPP is developed and implemented (ARM 17.30.1117).

**N. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

**O. Twenty-Four Hour Reporting**

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

2. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
3. The following must be included as information which must be reported within 24 hours:
  - a. any unanticipated bypass which exceeds any effluent limitation in the permit;
  - b. any upset which exceeds any effluent limitation in the permit; and
  - c. violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
4. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau.
5. Reports shall be submitted to the address in Part III.B.1.c. of this General Permit.

**P. Other Noncompliance**

The permittee shall report all instances of noncompliance not reported under Part IV or Parts V.K., V.N., or V.O. at the time monitoring reports are submitted. The reports must contain the information listed Part V.O. above.

**Q. Other Information**

When the permittee becomes aware that it failed to submit any relevant facts in a permit application (NOI), or submitted incorrect information in a permit application (NOI) or in any report to the Department, it shall promptly submit such facts or information.

**R. Bypass of Treatment Facilities**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2. and 3. below.
2. Notice:

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass.
  - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part V.O. (Twenty-Four Hour Reporting).
3. Prohibition of bypass.
  - a. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:
    - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
    - iii. The permittee submitted notices as required under Part V.R.2. above.
4. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part V.R.3.i.

**S. Upset**

1. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part V.S.2. below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. an upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. the permitted facility was at the time being properly operated;



- c. the permittee submitted notice of the upset as required in Part V.S.3.b. (24-hour notice); and
  - d. the permittee complied with any remedial measures required under Part V.D.
3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

**T. Penalties for Violations of Permit Conditions**

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to a civil penalty not to exceed \$25,000 per day or one year in prison, or both, for the first conviction, and \$50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions. Except as provided in permit conditions on Part V.R. (Bypass of Treatment Facilities), nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

**U. Penalties for Falsification of Reports**

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than six months per violation, or both.

**V. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

**W. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**X. Reopener Provision**

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. Water Quality Standards

The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.

2. Wasteload Allocation

A wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.

3. Water Quality Management Plan

A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.

**Part VI. DEFINITIONS**

1. The "Act" means the Federal Clean Water Act.
2. "Best Management Practices" ("BMPs") means schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state surface waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. The "Department" means the Montana Department of Environmental Quality.
4. "Discharge" means the injection, deposit, dumping, spilling, leaking, placing, or failing to remove any pollutant so that it or any constituent thereof may enter into state waters.
5. "Disturbance" related to construction activity means areas that are subject to clearing, excavating, grading, stockpiling earth materials, and placement/removal of earth material performed during construction projects.
6. "Ephemeral stream" means a stream or part of a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and whose channel bottom is always above the local water table.
7. "Facility or activity" means any MPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the MPDES program.
8. "Final stabilization" means the time at which all soil-disturbing activities at the site have been completed, and a vegetative cover has been established with a density of at least 70% of the pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. Final stabilization using vegetation must be accomplished using seeding mixtures or forbs, grasses, and shrubs that are adapted to the conditions of the site. Establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site will be considered final stabilization.
9. "Larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. These separate and distinct construction activities which form a larger common

plan of development or sale may have areas of disturbance which are not physically connected.

10. "Owner/Operator" means a person who owns, leases, operates, controls or supervises a point source
11. "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
12. "Receiving state surface waters" is the river, stream, lake, etc., which receives the discharge from the site.
13. "Regional administrator" means the administrator of Region VIII of the Environmental Protection Agency, which has jurisdiction over federal water pollution control activities in the state of Montana.
14. "Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.
15. "Significant sediment" means sediment, solids, or other wastes discharged from construction site, or a facility or activity regulated under the General Permit which exceeds 1.0 cubic foot in volume in any area of 100 square feet that may enter state surface water or a drainage that leads directly to state surface water.
16. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
17. "State waters" is defined at 75-5-103, MCA.
18. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
19. "Storm water discharge associated with construction activity" means a discharge of storm water from construction activities including clearing, grading, and excavation that result in the disturbance of equal to or greater than one acre of total land area. For purposes of these rules, construction activities include clearing, grading, excavation, stockpiling earth materials, and other placement or removal of earth material performed during construction projects. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger

common plan of development or sale if the larger common plan will ultimately disturb one acre or more.

(a) Regardless of the acreage of disturbance resulting from a construction activity, this definition includes any other discharges from construction activity designated by the department pursuant to ARM 17.30.1105(1)(f).

(b) For construction activities that result in disturbance of less than five acres of total land area, the acreage of disturbance does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(c) For construction activities that result in disturbance of five acres or more of total land area, this definition includes those requirements and clarifications stated in ARM 17.30.1102(29)(a), (b), (d) and (e).

20. "SWPPP" or "Storm Water Pollution Prevention Plan" means a document developed to help identify sources of pollution potentially affecting the quality of storm water discharges associated with a facility or activity, and to ensure implementation of measures to minimize and control pollutants in storm water discharges associated with a facility or activity. The Department determines specific requirements and information to be included in a SWPPP based on the type and characteristics of a facility or activity, and on the respective MPDES permit requirements.
21. "Surface waters" means any waters on the earth's surface including, but not limited to, streams, lakes, ponds, and reservoirs, and irrigation and drainage systems discharging directly into a stream, lake, pond, reservoir or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.